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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,329	12/31/2003	Avelino Corma Canos	2429-1-029	4687

7590 06/13/2005

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EXAMINER

SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/750,329	Applicant(s) CANOS ET AL.	
	Examiner David Sample	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1,2,5,8-11,13-19,22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031231</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Objections

Claims 1, 2, 5, 8-11, 13-19, 22 and 23 are objected to because of the following informalities:

The use of 'preferable' ranges or elements is understood by one of ordinary skill in the art to mean that the range or element is merely exemplary, and not required. However, such 'preferable' recitations have not been traditionally used in U.S. practice. Therefore, the examiner requests that the 'preferable' ranges or elements be deleted. The following is a list of 'preferable' recitations in the claims:

- In claim 1, the range for 'x'; the range for 'z'; and the range for 'r';
- In claim 2, the range for 't'; and the range for 'z';
- In claim 9, each of the composition ratios;
- In claim 10, each of the composition ratios;
- In claim 11, the range for 'x', the range for 'z'; and the range for 'r';
- In claim 14, the each of the reaction mixture ratios;
- In claim 15, the each of the reaction mixture ratios;
- In claim 16, the range for 't' and 'z';
- In claim 17, each of the reaction mixture ratios; and
- In claim 18, each of the reaction mixture ratios.

In claim 2, line 5, a colon has been omitted between 'tTO₂' and '(1-z-t).'

Claim 2 refers to claim 1 in two places. Such a reference is improper and there is no necessity for the second reference to claim 1. In a similar manner, claim 16 is an improper

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multiple dependent claim because it relates to a previous claim in other than the alternative by referring to claims 11 and 1.

Claims 5, 8, 13, 19 and 22 employ improper Markush language of 'selected among' or 'selected between.' Proper language is 'selected from the group consisting of ... and;' or 'is ... or.' See MPEP 2173.05(h).

In claim 18, line 15, '(SiO₂+GeO₂+TO₂)' is missing a close parenthesis.

In claim 18, line 17, 'SiO₂+GeO₂+TO₂)' is missing an open parenthesis.

Claim 23 does not end in a period.

Allowable Subject Matter

Claims 1-23 are allowed pending the resolution of the above objections. The prior art fails to disclose or suggest a material having the x-ray diffraction pattern recited in claim 1 which is free from fluorine, or a method of making ITQ-17 in the absence of F.

Further as to US 6,896,969, the reference does not qualify as prior art because the reference has the same inventive entity, and a obviousness type double patenting rejection is not appropriate because the claims of the reference does not suggest an as-synthesized material containing an organic template which has the x-ray diffraction pattern recited in claim 1.

Conclusion

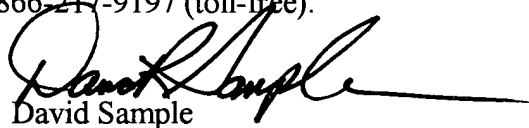
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Sample
Primary Examiner
Art Unit 1755